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NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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ADR

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

C09-05194 SI

Stagecoach Vineyards Limited Partnership, Plaintiff, vs. Delicato Vineyards d/b/a Clay Station Vineyards and Trader Joe's Company Defendants.	CASE NO. **COMPLAINT** 1. **Federal Trademark Infringement** 2. **Federal Unfair Competition** 3. **California Unfair Competition** 4. **California False or Misleading Statements** 5. **Common Law Trademark Infringement** **DEMAND FOR JURY TRIAL**

Plaintiff, Stagecoach Vineyards Limited Partnership ("Plaintiff"), for its complaint against Defendants, Delicato Vineyards d/b/a Clay Station Vineyards ("Delicato") and Trader Joe's Company ("Trader Joe's") (collectively "Defendants"), alleges as follows:

NATURE OF ACTION

1. This is an action to redress violations of the federal Lanham Act for infringement of federally registered trademarks (15 U.S.C. §1114), federal unfair competition (15 U.S.C. §1125(a)), state unfair competition (Cal. Bus. & Prof. Code §17200) and the dissemination of false and misleading statements (Cal. Bus. & Prof. Code §17500), and common law trademark and service mark infringement, as the result of willful and

unauthorized use by Defendants of colorable imitations of Plaintiff's trademarks and service mark, as more fully set forth hereinafter. Plaintiff seeks preliminary and permanent injunctive relief restraining Defendants' infringement of Plaintiff's marks, monetary damages, attorneys' fees and related relief.

THE PARTIES

2. Plaintiff, Stagecoach Vineyards Limited Partnership, is a California limited partnership with its principal place of business located at 3265 Soda Canyon Road, Napa, CA 94558.

3. Upon information and belief, Defendant Delicato Vineyards, doing business as Clay Station Vineyards, is a California corporation with its principal place of business located at 12001 South Highway 99, Manteca, CA 95336.

4. Upon information and belief, Defendant Trader Joe's Company is a California corporation with its principal place of business located at 800 South Shamrock Avenue, Monrovia, CA 91016.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over Plaintiff's claim under and pursuant to 15 U.S.C. §1121 and 28 U.S.C. §1338(a), as the claims arise under the federal Lanham Act, 15 U.S.C. §§1051-1127. This Court also has pendent jurisdiction over all related claims herein in accordance with 28 U.S.C. §1338(b).

6. Upon information and belief, Defendants, either directly or through their agents, transacted business in the State of California and within this judicial district, as more specifically set forth below, and expected or should reasonably have expected their acts to have consequence in the State of California and within this judicial district.

7. Venue is proper in this district pursuant to 28 U.S.C. §1391(b), as Defendants are doing business in this judicial district and therefore may be found in this district, and/or as a

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substantial part of the events giving rise to the claims alleged herein occurred in this judicial district, and/or the infringement occurred in this judicial district.

ALLEGATIONS COMMON TO ALL CLAIMS

8. Plaintiff is the owner of U.S. Trademark Registration No. 2,608,639 for the trademark STAGECOACH VINEYARDS for wine. The registration has an effective date of May 1, 2000. Such registration is valid and subsisting and owned by Plaintiff and is now incontestable in accordance with 15 U.S.C. §§1065 and 1115(b). Pursuant to such registration, Plaintiff's STAGECOACH VINEYARDS mark is also presumed to be distinctive.

9. Plaintiff is the owner of U.S. Trademark Registration No. 2,217,901 for the service mark STAGECOACH VINEYARD for vineyard services, namely, cultivation of grapes to the order and specification of others. The registration has an effective date of June 20, 1997. Such registration is valid and subsisting and owned by Plaintiff and is now incontestable in accordance with 15 U.S.C. §§1065 and 1115(b). Pursuant to such registration, Plaintiff's STAGECOACH VINEYARD mark is also presumed to be distinctive.

10. Plaintiff is the owner of U.S. Trademark Registration No. 2,646,769 for the trademark STAGECOACH HEIGHTS for fresh wine grapes. The registration has an effective date of October 10, 2000. Such registration is valid and subsisting and owned by Plaintiff and is now incontestable in accordance with 15 U.S.C. §§1065 and 1115(b). Pursuant to such registration, Plaintiff's STAGECOACH HEIGHTS mark is also presumed to be distinctive.

11. Plaintiff is the owner of U.S. Trademark Registration No. 2,552,166 for the trademark STAGECOACH TRAIL for fresh wine grapes. The registration has an effective date

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of October 6, 2000. Such registration is valid and subsisting and owned by Plaintiff and is now incontestable in accordance with 15 U.S.C. §§1065 and 1115(b). Pursuant to such registration, Plaintiff's STAGECOACH TRAIL mark is also presumed to be distinctive.

12. Plaintiff is the owner of U.S. Trademark Registration No. 2,537,958 for the trademark STAGECOACH SPOKE for fresh wine grapes. The registration has an effective date of October 6, 2000. Such registration is valid and subsisting and owned by Plaintiff and is now incontestable in accordance with 15 U.S.C. §§1065 and 1115(b). Pursuant to such registration, Plaintiff's STAGECOACH SPOKE mark is also presumed to be distinctive.

13. In 1995, the Stagecoach Vineyards vineyard property was first planted. In 1996, Stagecoach Vineyards Limited Partnership was formed and a sign identifying the vineyards to the public as STAGECOACH VINEYARDS was also erected. Stagecoach Vineyards entered its first agreement for the cultivation of grapes to the order and specification of others under the STAGECOACH VINEYARDS mark in 1996, and began providing such services immediately thereafter. In 1997, Stagecoach Vineyards first licensed the use of the mark STAGECOACH VINEYARDS on wine made from STAGECOACH VINEYARDS grapes. In 1997, Stagecoach Vineyards also first harvested and delivered STAGECOACH VINEYARDS wine grapes to customers for use in the production of wine. In February 1999, the STAGECOACH VINEYARDS mark was first featured in association with wine at a barrel auction for charity. Plaintiff's various "STAGECOACH" formative marks and trade names as referenced in paragraphs 8 – 13 of the Complaint are collectively referred to as the STAGECOACH Marks.

14. In November of 2000, the *Wine Spectator* featured Stagecoach Vineyards in a five-page article entitled "Napa's New Frontier: Winemakers are clamoring for grapes from the lofty Stagecoach Vineyards," discussing Plaintiff's vineyards, the high quality of the grapes being produced there and the demand for such grapes among well-known wineries.

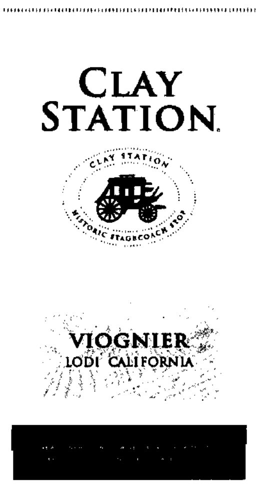
15. Today, Stagecoach Vineyards consists of over 500 acres of grapes of numerous varieties including Cabernet Sauvignon, Merlot, Cabernet Franc, Syrah, Petit Verdot, Malbec, Zinfandel, Sangiovese, Chardonnay and Marsanne and the property is valued at over $100 million. Plaintiff sells its STAGECOACH VINEYARDS grapes to over fifty different wineries and STAGECOACH VINEYARDS grapes are recognized in the industry for their high quality.

16. As part of the sale of STAGECOACH VINEYARDS grapes, Plaintiff licenses the use of the STAGECOACH VINEYARDS mark for wine produced 95% or more from STAGECOACH VINEYARDS grapes. The STAGECOACH VINEYARDS mark appears on such wine in the manner of a vineyard designation in association with the house mark of the winery producing the wine from the STAGECOACH VINEYARDS grapes.

17. Over the years, over 50 different wines carrying Plaintiff's STAGECOACH VINEYARDS mark have been favorably reviewed in the *Wine* Spectator, as well as numerous other publications, and the STAGECOACH VINEYARDS mark has appeared on over twenty different brands of wine made using STAGECOACH VINEYARDS grapes. As a result of the use of the STAGECOACH VINEYARDS mark on wine and the favorable reception of such wine by consumers, the STAGECOACH VINEYARDS mark is an extremely valuable mark to both Plaintiff and its licensees.

18. Plaintiff owns extremely valuable goodwill which is symbolized by its STAGECOACH Marks and each use of these marks substantially increases the value of Plaintiff's company and the salability of the goods and services sold through Plaintiff's company, as well as the value of the wine brands using the STAGECOACH VINEYARDS mark.

19. Defendant, Delicato Vineyards, does business as Clay Station Vineyards. Delicato produces wine under the brand name CLAY STATION and prominently features the image of a stagecoach on its front label in the manner of a trademark. An image of the label featuring the stagecoach design is set forth below:



20. The stagecoach design mark is featured a total of seven times on the bottle for the CLAY STATION wine, including on the back label, the sides and top of the wine capsule and on both sides of the cork. The stagecoach design mark is also prominently featured in Delicato's advertising for the CLAY STATION wine.

21. Upon information and belief, Delicato adopted the stagecoach design mark after Plaintiff's adoption of its STAGECOACH Marks and after the effective dates for Plaintiff's registrations for its STAGECOACH Marks.

22. Defendant, Trade Joe's, is a retail grocery store chain that sells wine throughout California, including in this judicial district. Trader Joe's sells a variety of wines at

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different price points including, upon information and belief, premium wines that have been made available to Trader Joe's at discounted prices. Upon information and belief, Trader Joe's passes along these cost savings in these discounted premium wines to its customers by selling such wines at markedly reduced prices that would not otherwise be available to consumers.

23. Trader Joe's has sold and, upon information and belief, continues to sell Delicato's CLAY STATION wine featuring the stagecoach design mark in its stores located in this judicial district.

24. Delicato's stagecoach design trademark is confusingly similar to Plaintiff's STAGECOACH Marks, given that the parties' marks are virtually identical in meaning as picture/word equivalents, and that the goods offered by Delicato under its stagecoach design mark, namely, wine, are identical and highly related to the goods and services which Plaintiff and its licensees offers under the STAGECOACH Marks, namely, wine, wine grapes and the cultivation of wine grapes to the order and specification of others.

25. On August 5, 2009, Plaintiff sent Delicato a demand letter advising Delicato of Plaintiff's rights in the STAGECOACH Marks and Plaintiff requested that Delicato not use the confusingly similar stagecoach design mark for wine. After requesting and being granted additional time to respond to Plaintiff's demands, Delicato responded on September 18, 2009 by indicating that it intended to continue its use of the stagecoach design mark on its wine.

26. Use of the stagecoach design mark on wine sold by Defendants is likely to confuse consumers into believing that Delicato's CLAY STATION wine is made from STAGECOACH VINEYARDS grapes, or is affiliated with, associated with, connected to, or sponsored by Plaintiff or Plaintiff's well-known STAGECOACH VINEYARDS wine grapes and licensed wine.

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27. Plaintiff will be harmed by such confusion as Delicato's CLAY STATION wine brand will unjustly benefit, and sales of the brand will unjustly increase from the false association with Plaintiff, at no cost to Defendants. This will harm Plaintiff by endangering the ability of Plaintiff's STAGECOACH Marks to serve as unique and distinctive source indicators for Plaintiff's and its licensee's goods and services.

28. Unless restrained by this Court, Defendants will proceed to unfairly compete with Plaintiff by using the stagecoach design mark, wherefore Plaintiff is without adequate remedy at law.

29. Defendants' continued infringing use of the confusingly similar stagecoach design mark will financially harm Plaintiff by diminishing the value of Plaintiff's mark as a source indicator for Plaintiff's and its licensee's goods and services, and Defendants' infringing use of the stagecoach design mark will increase the sales and profitability of Defendants' CLAY STATION brand wine to the detriment of Plaintiff.

30. This case is an exceptional case entitling Plaintiff to treble damages and attorneys' fees.

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FIRST CAUSE OF ACTION

(Federal Trademark and Service Mark Infringement under 15 U.S.C. §1114)

31. Plaintiff restates and reavers the allegations of Paragraphs 1 through 30, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

32. Defendants' above-averred actions constitute use in commerce of a reproduction, counterfeit, copy or colorable imitation of Plaintiff's registered marks in connection with the sale, offering for sale, distribution or advertising of goods or services on or in connection with which such use is likely to cause consumer confusion, deception or

mistake as to source, sponsorship or approval of the aforesaid goods in violation of 15 U.S.C. §1114.

SECOND CAUSE OF ACTION

(Federal Unfair Competition under 15 U.S.C. §1125(a))

33. Plaintiff restates and reavers the allegations of Paragraphs 1 through 32, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

34. The Defendants' above-averred actions constitute use in commerce of a word, name or device and false designation of origin which is likely to cause confusion, or to cause mistake, or to deceive as to affiliation, connection or association of Defendants with Plaintiff or as to the origin, sponsorship or approval of the goods offered in connection therewith in violation of 15 U.S.C. §1125.

THIRD CAUSE OF ACTION

(State Unfair Competition under Cal. Bus. & Prof. Code §17200)

35. Plaintiff restates and reavers the allegations of Paragraphs 1 through 34, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

36. The Defendants' above-averred actions constitute unlawful, unfair or fraudulent business acts or practices in violation of Cal. Bus. & Prof. Code §17200.

FOURTH CAUSE OF ACTION

(False or Misleading Statements under Cal. Bus. & Prof. Code §17500)

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37. Plaintiff restates and reavers the allegations of Paragraphs 1 through 36, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

38. The Defendants' above-averred actions constitute the dissemination and making of untrue or misleading statements, which by the exercise of reasonable care should have been known to be false or misleading, in violation of Cal. Bus. & Prof. Code §17500.

FIFTH CAUSE OF ACTION

(Common Law Trademark and Service Mark Infringement)

39. Plaintiff restates and reavers the allegations of Paragraphs 1 through 38, inclusive, and the acts of Defendants asserted therein as if set forth in full as part of this Cause of Action.

40. The Defendants' above-averred actions constitute service mark and trademark infringement and passing off in violation of the common law of California.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that judgment be entered as follows:

1. That Defendants, their principals, partners, franchisees, agents, employees, licensees, affiliates, distributors, producers, any parent and subsidiary companies, attorneys and representatives and all of those in privity with or acting under their direction and/or pursuant to their control, be preliminarily and permanently enjoined and restrained, from directly or indirectly:

   a. Using the image of a stagecoach, or images, terms or marks confusingly similar to the STAGECOACH Marks, in connection with the advertisement,

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promotion, distribution, offering for sale or selling of wine, or products or services related to wine;

b. Performing any acts or using any service marks, trademarks, names, words, images or phrases that are likely to cause confusion, to cause mistake, to deceive or otherwise mislead the trade or public into believing that Plaintiff and the Defendants are one in the same or are in some way connected or that Plaintiff is a sponsor of the Defendants or that the services or goods of the Defendants originate with Plaintiff or are likely to lead the trade or public to associate the Defendants with Plaintiff;

2. That Defendants be required to file with the Court, and serve on Plaintiff, a statement under oath evidencing compliance with any preliminary or permanent injunctive relief ordered by the Court within fourteen (14) days after the entry of such order of injunctive relief.

3. That Defendants, their principals, partners, franchisees, agents, employees, licensees, affiliates, distributors, producers, any parent and subsidiary companies, attorneys and representatives and all of those in privity with or acting under their direction and/or pursuant to their control, be required to deliver up for destruction all advertising, promotional, point of sale, labels, caps, corks, neckers, packaging, and any other materials bearing the infringing mark together with all artwork, plates, molds, matrices and other means and materials for making and reproducing the same;

4. That Defendants be ordered to pay Plaintiff monetary damages for the harm resulting from infringement of Plaintiff's mark, in an amount to be determined at trial;

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5. That Plaintiff's damages be trebled and that Defendants be order to pay Plaintiff's attorneys' fees on the basis that this is an exceptional case;

6. That Plaintiff have such other and further relief as this Court shall deem just and proper on the merits.

Dated: 11/2/09

Respectfully submitted,

DICKENSON, PEATMAN & FOGARTY

By ______________________

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DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury in this matter.

Dated: 11/2/09

Respectfully submitted,

DICKENSON, PEATMAN & FOGARTY

By ______________________

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